

CALIFORNIA ENERGY COMMISSION
INITIAL STATEMENT OF REASONS

**FOR PROPOSED AMENDMENTS TO
CALIFORNIA CODE OF REGULATIONS, TITLE 20, DIVISION 2:**

**CHAPTER 3, ARTICLE 1 (QUARTERLY FUEL AND ENERGY REPORTS) AND
ARTICLE 2 (ELECTRIC AND GAS UTILITY SURVEYS AND LOAD METERING
REPORTS; POWER PLANT OPERATING CHARACTERISTICS REPORTS)
AND
CHAPTER 7, ARTICLE 2 (DISCLOSURE OF COMMISSION RECORDS)**

**Docket No. 97-DC&CR-1
July 2001**

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Introduction

In this rulemaking the California Energy Commission (Commission) is proposing to amend its regulations on the collection of energy data and on the confidentiality of Commission records.

The Commission is responsible for reporting on the economic and environmental effects of energy trends, forecasting future energy developments, licensing power plants, supporting research and development activities, developing and implementing energy efficiency programs, supporting renewable and other alternative energy sources, and many other energy-related activities. (see Public Resources Code Sections 25000 et seq.) The Commission is the major energy policy entity in the state, and it makes recommendations directly to the Governor. (See *id.* Section 25309.2.)

In order to carry out its duties, the Commission must have a thorough collection of data on all aspects of energy production and use. For example, the Commission must have data on the historical consumption of electricity in order to forecast future trends and to assess the adequacy of current supplies. The Legislature has designated the Commission as "a central repository within the state government for the collection, storage, retrieval, and dissemination of data and information on *all* forms of energy supply, demand conservation, public safety, research, and related subjects." (Public Resources Code Section 25216.5(d) (emphasis added).) Thus, the Commission is directed to obtain "data and information...derived from all sources, including, but not limited

to, electric and gas utilities, oil and other energy producing companies, institutions of higher education, private industry, public and private research laboratories, private individuals, and from any other source that the commission determines is necessary to carry out its objectives..." (*Id.* (emphasis added).) To keep the Legislature, the Governor, and the public informed, the Commission must submit numerous reports on energy trends, including forecasts, environmental assessments, and reliability analyses. (Public Resources Code Sections 25305, 25308, 25309, 25309.3(c), 25310, 25310.2, 25322, 25324, 25325, 25401, 25401.1, 25401.2, 25403, 25403.5, 25602, 25604.)

The Commission adopted its first data collection regulations more than twenty-five years ago. (History note, California Code of Regulations, Title 20, Section 1301. All further section references are to Title 20 of the California Code of Regulations, unless otherwise noted.) The Commission's data regulations, in Chapter 3 of Title 20, now cover the submittal of five types of data in periodic (e.g., quarterly, annual) reports:

Article 1: Energy production and sales data collected from electricity and natural gas producers, transmitters, and sellers.

Article 2: Surveys of consumer use, and forecasts of future demand, collected from electricity and natural gas utilities.

Article 3: Petroleum production and refinery data, collected from oil companies.

Article 4: Data on wind electricity generators.

Article 5: The disclosure by sellers to consumers of the types of fuel sources (e.g., nuclear, geothermal, wind) used to generate electricity.

The Commission's extensive databases are relied upon daily by thousands of businesses, governmental agencies, and individuals. Without the data collected by the Commission it would be virtually impossible to assess energy trends and problems and to identify solutions.

The Commission also has regulations dealing with the confidentiality of data. (Sections 2501 - 2510.) Some of the data collected by the Commission should not be publicly disclosed. This data includes trade secrets of proprietary value to businesses and private information about individual persons and businesses. The Commission's confidentiality regulations implement the provisions of the Public Records Act (Government Code Sections 6250 et seq.) and describe the circumstances under which Commission data may be withheld and disclosed.

Historical Background and General Purpose of the Proposed Amendments

This rulemaking is undertaken largely in response to major changes in the structure and regulation of energy markets that have taken place in the past several years. Until recently the electricity market was primarily composed of large investor-owned utilities (such as PG&E) and publicly-owned utilities (such as SMUD) that had two key features:

The generation (power plants), transmission (high-voltage lines), and distribution (local lines) of electricity were vertically integrated in each utility.

The utilities were monopolies with regulated rates and no competition for any utility services.

Beginning in 1992, the Federal Energy Regulatory Commission (FERC) issued a series of orders that directed utilities to revise their transmission access practices to enable greater utilization of the transmission network by non-utility generators. In 1996, California enacted major electric restructuring legislation (AB 1890, Chapter 854, Statutes of 1996) that went several steps further by creating both a competitive generation industry and opportunities for non-utility electric marketers to sell directly to retail customers. As a result, there have been major changes in the scope and regulation of investor-owned utilities in California and the formation of numerous organizations that provide electric services to customers.

The electric market for the investor-owned utilities (IOUs) that serve 70 percent California's customers now looks like this:

1) Generation has been "unbundled" from transmission and distribution and it is now competitive. The IOUs have sold many of their power plants to independent generators, and new plants are being proposed almost exclusively by non-utility entities. Anyone can sell the basic electricity commodity to consumers, and many electricity marketers have begun to conduct activities formerly limited to the monopoly utilities. Wholesale prices for electricity commodity are not regulated—as opposed to rates for transmission and distribution, which remain regulated;

2) Transmission remains a monopoly function, but the operation of the IOU grid has been given to the non-profit, state-chartered Independent System Operator (ISO); and

3) Distribution is the only function that looks generally as it did before industry restructuring. The IOUs continue their regulated monopoly functions here.

The consequences of these changes for the Commission's data collection practices are substantial. First, the entities that formerly collected much of the data on electricity and natural gas and provided it to the Commission—that is, the vertically-integrated utilities—no longer have that responsibility. The IOUs now own few power plants and cannot readily access accurate information about electric generation. New entities operating in the industry are better able to, and can with less expense, collect and deliver electricity data to the Commission. For example, entities that sell electricity to end users can more readily provide data about the amount of electricity that they sell than the utilities that operate the distribution system. Finally, electric restructuring has resulted in an increasing reliance on natural gas as a power plant fuel, which in turn has strengthened the link between electric and natural gas markets. This means that both electricity and natural gas data collection changes are necessary.

Several years ago the Commission recognized that the changes in industry structure required reexamining its data regulations. In the summer of 1997, the Commission initiated an investigation that involved participants from in electric and natural gas markets. Following numerous and extensive public discussions, the Commission published its *Report on Generator & Consumer Data Reporting Requirements* (Commission publication number P300-99-007, hereafter *Data Report*).¹ The *Data Report* addresses:

- 1) The policy justifications for the Commission's analytic activities that require detailed electricity and natural gas data.
- 2) The roles and responsibilities of various categories of industry participants.
- 3) The split of data processing burdens between reporting entities and the Commission staff.
- 4) Confidentiality concerns in light of increased competitive forces.
- 5) Opportunities to harmonize Commission data reporting requirements with those previously established by the federal Energy Information Administration (EIA) (see 63 Federal Register 1960 (January 13, 1998)).

In the *Data Report*, the Commission attempted to strike a balance among competing interests. The report provides the basic framework for the specific

¹ In 1999, The *Data Report* was mailed to all participants in the proceeding and is available on the Commission website at <http://www.energy.ca.gov/reports/1999-12-17_300-99-007.PDF> or by contacting Andrea Gough, 1516 Ninth Street, MS 22, Sacramento, California 95814-5512, telephone (916) 654-4928, fax (916) 654-4910 or e-mail agough@energy.state.ca.us.

changes in data collections and reporting requirements set forth in the proposed regulations. To implement the regulations, the Commission divided its rulemaking into two parts. The first part was completed in February 2001, when a substantially revised Article 1 and associated confidentiality amendments were filed with the Secretary of State. The Commission's second part begins with this ISOR and its associated Notice of Proposed Amendments (NOPA) and Express Terms. The Express Terms cover improvements to Article 1 (slight changes); substantial revision of Article 2 to incorporate the remainder of the recommendations in the *Data Report* and data needed to monitor changes in the electric market; and associated amendments to the confidentiality regulations.

Since the *Data Report* was issued and as the second phase of this rulemaking began to take shape, events such as rising wholesale prices and inadequate electric supply have magnified the importance of energy data to monitor energy markets and develop state energy policy. Without current data on the characteristics of energy supply and demand, it is nearly impossible for state government—and market participants—to monitor trends, assess new factors, analyze the adequacy of energy supplies, maintain fair competition, support energy efficiency and renewable alternatives, and foster low energy costs for businesses and individuals. Therefore, though in most cases the proposed regulations closely follow the recommendations in the *Data Report*, there are exceptions that warrant the proposed regulations to go beyond the recommendations of the *Data Report*. Each exception is mentioned in the discussion of specific sections below (see "Section by Section Analysis").

Before finalizing recommendations for data beyond the scope of the *Data Report*, the Commission held a data collection workshop in July 2001. The workshop gave electric and gas market participants and Commission staff the opportunity to discuss the implications of providing the recommended data and the necessary uses of the information in monitoring the changing energy market and developing state policy. Following the final workshop, the Commission released for publication this ISOR and its associated NOPA and Express Terms

Impacts on Businesses

In developing the proposed regulatory amendments, the Commission was especially cognizant of the need to avoid undue burdens on businesses, especially small businesses. After all, one of the basic tenants of electric industry restructuring was to increase competition. Therefore, placing undue burdens on the business community would be incompatible with that goal. The Commission has attempted, wherever possible, to reduce reporting burdens. Nevertheless, in order to ensure that the electricity and natural gas markets operate in a truly competitive manner, it is necessary for a certain amount of data collection. The Commission believes that the reporting requirements in the

proposed regulations are the minimum necessary to ensure that the Commission has the data necessary to carry out its legislatively-mandated functions.

Most of the entities covered by the proposed amendments are large electric utilities and power plant owners. In developing the *Data Report*, the Commission attempted to contact all potential participants in the California electricity and natural gas markets that might be covered by data reporting requirements. The Commission will continue those efforts in this rulemaking.

Five General Categories of Changes

Minor Changes to Article 1 (Sections 1302-1308)

After publication of Article 1 in February 2001, it became apparent that minor modifications were warranted. In most cases, the improvements were simply clarifications, for example, Section 1308(d) is titled *Annual Natural Gas Deliver Revenues*. In that section, we inadvertently asked for gas delivery revenue for each of the previous three months. The revision now asks for annual revenue, which was the original intent of Section 1308(d). Two of the additional modifications are elicited to better meet recent developments in the energy environment. These improvements require: 1) utility and liquid distribution companies to provide more frequent information to energy service providers since their customer base fluctuates greatly with changing energy prices, and 2) utility distribution companies to provide information about backup generators since this is a growing trend in California due to recent electricity shortages.

Energy End User Data: Survey Plans, Surveys, and Reports (Section 1343)

To accurately assess and forecast trends in energy demand the Commission needs information on how energy is used in homes and businesses. This information has historically been derived from end user surveys that collect data on customer appliances or other equipment, the characteristics of the customer's home or business building, the customer's understanding of existing efficiency programs and opportunities for choice of electric service providers, and key economic and demographic variables, combined with the customer's historic energy use. The Commission uses these data to analyze current trends in energy use, and to determine the impacts on future energy demand and the resulting pressures on system and transmission reliability. These data are also used to assess the market potential for energy efficiency and to target energy efficiency programs where they will be most effective.

The *Data Report* explains that in the past, these structural energy use characteristics were obtained primarily through utility surveys conducted as part of the utility data plans required under Title 20, CCR Section 1344. These regulations required utilities to conduct end-use customer surveys in the residential and commercial sectors every two years and in the assembly-industry sector every four years. Funding for these activities for investor-owned utilities was done through the California Public Utility Commission approval of utility budgets. With the passage of AB 1890, the investor-owned utilities were no longer authorized to collect ratepayer revenues to recover the costs of these activities.

The changing role of utilities in the restructured market has changed the need for the utility distribution company (UDC) to collect data that would permit it to make long-run demand forecasts. As a regulated monopoly, the utility had an obligation to conduct long-run demand forecasting as an element of resource planning in regulatory proceedings. While that particular role for the utilities no longer exists, long run forecasting is still necessary to support transmission and distribution planning, and characteristics data are still essential for forecasting and analysis.

The cooperation of the UDCs is still necessary to implement energy surveys because they have the accounting data needed for sampling, and customer billing histories needed for analysis of energy consumption. Because the data collected would be used by the Commission, it is more efficient for the Commission to manage the surveys with UDC cooperation. As of yet, however, a permanent funding source for Commission-managed surveys has not been put in place. Interim funding from the Energy Efficiency Public Good Charge (EPPGC) is being provided by the utilities.

To reflect the changed UDC role, the *Data Report* recommends regulatory amendments that replace the annual utility data plan requirement with fixed survey requirements. A compliance option is added that allows UDCs to contribute appropriate customer information to CEC-managed studies in lieu of the fixed survey requirements. The Commission conducts the survey and analyses and provides participating UDCs with survey results for their service area. UDCs that choose the compliance option must also provide adequate resources to the Commission to fulfill the UDC's share of the data collection objectives. Once the Commission achieves permanent funding for this activity in its own budget, this financial contribution will not be necessary. However, until that event occurs, this important data collection activity can continue.

Load Metering Report (Section 1344)

The Commission will continue the collection of load research data from medium and large UDCs. This reporting requirement should be the primary responsibility of UDCs as it is tied to their distribution function that they perform.

The requirements are consistent with obligations of UDCs under CPUC guidance and the practical activities expected of utilities by the ISO. The reporting requirements for load research data are also consistent with current reporting requirements at FERC. The Commission will accept utility submission of FERC data as a compliance option.

For system load shapes, the *Data Report* recommends that the current requirements be expanded to include medium utilities that report to FERC. Because the cost of compliance is only the incremental cost of providing copies of the FERC data submission to the Commission, this expansion to medium utilities is reasonable.

For sector load shapes, the *Data Report* recommends a move from a typical-day basis to a full annual hourly basis. Most UDCs collect and post hourly data. As a result, the change in reporting basis is more consistent with current industry practices. The move to a full annual basis is also consistent with current market structure, which is based on hourly markets. This approach reduces the work necessary to come up with the typical day required under the old regulations since the post-processing step to determine typical days for each month will no longer be needed.

Power Plant Identifying and Operating Characteristics (Section 1345)

The *Data Report* has developed a new approach to the current data collection methods used for power plant characteristics. The approach relies on the Commission providing one database on power plant characteristics with biennial updating by market participants. This involves a major shift in responsibility for maintaining data to the Commission. Generators would only be obligated to provide biennial updates. In the past, the database for generator characteristics was supplied by utilities and updated filings were required under Commission regulations. Since IOUs no longer own most of the power plants, the reporting responsibilities have shifted to power plant owners.

Disclosure of Commission Records (Sections 2503, 2505, 2507)

The Commission's confidentiality regulations implement the California Public Records Act, Government Code Section 6250 et seq. The Public Records Act establishes a general rule that records kept by agencies such as the Commission be disclosed; however, the act also describes numerous categories of records that agencies are allowed to, or must, keep confidential. The Commission's regulations establish a process whereby persons submitting records to the Commission may obtain confidential treatment if they demonstrate that the Public Records Act authorizes the Commission to withhold the records from public disclosure. As part of the process, the regulations also establish several categories of data that automatically receive confidential treatment.

The regulations also state that certain records receiving confidential treatment may be disclosed if the data is aggregated to a level that people or businesses, or their characteristics, cannot be identified from the aggregate data. Of relevance to this rulemaking proceeding are the provisions that govern the automatic designation of records as confidential, and that allow the disclosure of confidential data if the data is masked or aggregated to prevent the discovery of the identify or characteristics of individual customers.

Factors Applicable to All Sections

Several of the Administrative Procedure Act (APA)² requirements for the Initial Statement of Reasons (ISOR) call for the same general response for each section of the proposed data collection amendments. To save space and the reader's time, we address those matters here. Where additional information is appropriate, it is presented under the appropriate individual sections.

Studies, Reports and Documents Relied On

In developing the proposed regulations, the Commission relied on the *Data Report*, that is discussed above and that resulted from an extensive public process involving all affected stakeholders. All public comments will be considered during the course of the rulemaking and before all adoption of final regulations.

Alternative and Reasons for Rejection, Including Alternatives to Lessen Impacts on Small Businesses

The public process that culminated in the *Data Report* considered many potential alternatives for data collection: what data would be collected, who should provide it, and so on. As we noted above, the Commission intends and believes that the proposed regulations impose the smallest burdens possible. It looks forward to stakeholder suggestions that may achieve even greater reductions in reporting burdens while still meeting the legitimate data needs of the Commission, market participants and the public.

² California Administrative Procedure Act appears in California Government Code, Title 2, division 3, part 1, chapter 3.5, commencing with section 11340, which generally governs the adoption, amendment, or repeal of regulations by California state agencies.

Efforts to Avoid Unnecessary Duplication with Federal Regulations

The Commission scrupulously examined federal requirements in the field of energy data. The proposed regulations are in many instances entirely consistent with federal requirements; they differ only where California-specific conditions (for example, California's new electricity market structure) require different or additional data. In some cases reporting businesses will be able to submit the same forms to the Commission that they submit to FERC or to other federal agencies.

Section by Section Analysis

Amendments to Data Collection Regulations, Article 1 (Sections 1302-1308)

Section 1302. Rules of Construction and Definitions

Circumstances Addressed: Section 1302(b) definitions for "Customer sector" and "Electric power plant."

Purpose and Rationale: In the definition of "Customer sector", the Standard Industrial Classification or North American Industrial Classification System codes that are in more than one sector are corrected. Also, some codes have been eliminated because they are no longer commonly used or official codes with the Federal government.

In the definition of "Electric power plant," power plants used for emergency purposes are added. Emergency power plants (also known as backup generators) are a growing trend in California due to recent electricity shortages. To perform analysis of the impact of this form of electric generation, emergency power plants must be included with the power plant information provided by UDCs in Section 1304.

Section 1303. General Rules for All Reports

Circumstances Addressed: Section 1311 was repealed in February 2001.

Purpose and Rationale: The mention of Section 1311 is eliminated since Section 1311 was repealed February 23, 2001.

Section 1306. Electric Retailer Reports and Customer Classification Coding by UDCs

Circumstances Addressed: Frequency of reporting in Section 1306(b)(2).

Purpose and Rationale: UDCs responsibility to provide energy service providers Customer Classification Codes is changed from an annual basis to a quarterly basis. Recently, as electricity prices began to rise, many customers changed from purchasing electricity from energy service providers to purchasing directly from UDCs. If electricity prices decrease, customers may return to purchasing electricity from energy service providers. Currently UDCs are required once a year to provide a Customer Classification Code for each energy service provider customer. Because of the customer fluctuation, annual reporting leaves many customers unclassified. A change to quarterly reporting will assure that most customers are assigned a Customer Classification Code.

Section 1307. Gas Retailer Reports and Customer Classification Coding by LDCs

Circumstances Addressed: Frequency of reporting and correction of term "electricity" corrected to "natural gas" in Section 1307(b)(2).

Purpose and Rationale: Local distribution company (LDC) responsibility to provide gas retailers Customer Classification Codes is changed from an annual basis to a quarterly basis. Recently, as natural gas prices have risen, many customers changed from purchasing gas from gas retailers to purchasing directly from the LDCs. If natural gas prices decrease, customers may return to purchasing from gas retailers. Currently, gas retailers receive the Customer Classification Code for their customers from the LDC once a year. Because of customer fluctuations, annual reporting leaves many customers unclassified. A change to quarterly reporting will assure that most customers are assigned a Customer Classification Code.

In Section 1307(b)(2), the words "report electricity" are changed to "report natural gas." The word "electricity" was an inadvertent mistake in this section about natural gas.

Section 1308. Gas Utility Reports

Circumstances Addressed: Correction in Section 1308(d) where annual natural gas delivery revenues are mistakenly described as revenues received for each of the previous three months.

Purpose and Rationale: In Section 1308(d), the words "each of the previous three months" are eliminated since the intent of this section is to collect annual data.

Amendments to Data Collection Regulations, Article 2 (Sections 1340-1346)

Section 1340. Scope

Circumstances Addressed: Identification of the parties affected by the regulations.

Purpose and Rationale: This section is revised to identify the parties affected by the regulations.

Section 1341. Rules of Construction and Definitions

Circumstances Addressed: Rules of construction and definitions.

Purpose and Rationale: This section establishes rules of construction that will make the regulations easier to understand and to use and to amend the definition of certain terms in the regulations. There are many new terms in the proposed amendments. In order to make the regulations clear, the Commission must define terms that are susceptible to different interpretations or that may be unfamiliar to those who have to comply with the regulations. Some amendments delete terms no longer used in the regulations, while others add new terms added in the regulations. Without the amended definitions, the regulations would be unclear.

Section 1342. General Requirements for Survey, Load Metering and Power Plant Data Reports

Circumstances Addressed: The current regulations have general substantive and procedural requirements in various sections that are not easy to use. In addition, the current regulations do not provide businesses with alternative means of complying with the Commission's requirements that could save time and money.

Purpose and Rationale: The purpose of Section 1342 is to consolidate and make the regulations easier to use. The proposed regulations deal with reports submitted by several different entities. There are general requirements, both substantive and procedural, that are applicable to all reports. Section 1342 brings together in one place the requirements that are generally applicable. This proposal will substantially reduce burdens on reporting entities.

Section 1342(a) states expressly that each of the reports described in the subsequent sections of Article 2 must be submitted.

Section 1342(b) provides that data shall be submitted in accordance to forms and instructions specified by the Commission's Executive Director. This allows for consistency in reporting and ease of analysis.

Section 1342(c) specifies that biennial reports contain data for the previous calendar year.

Section 1342(d) specifies requirements for requesting an extension of the time for the deadlines specified in Article 2. This allows reporting entities some flexibility.

Section 1342(e) describes the submittal date for reports. This clarifies what the Commission considers as an appropriate submittal.

Section 1342(f) allows a reporting entity to delegate the submittal of data. It contains special rules necessary to ensure that the delegated entity is capable of complying with the regulations.

Section 1342(g) allows a reporting entity to submit previous reports if the data is exactly the same as the data contained in a previously submitted reports. This option reduces the burden for the reporting entity.

Section 1342(h) allows a reporting entity to apply to the Commission's Executive Director for authorization to submit alternative data, reports or format. This is another option that reduces the burden for the reporting entity.

Section 1342(i) contains general requirements for all reports, such as the name and address of the reporting company and the time period that the report covers. Putting all the general requirements in one place eliminates the necessity for repetition.

Section 1342(j) specifies that when data is submitted, the results must be replicable.

Section 1343. Energy End User Data: Survey Plans, Surveys, and Reports.

Circumstances Addressed: The current regulations rely on utilities to provide a data plan, survey and reporting requirements for customer characteristics and load data. The proposed Section 1343 addresses only customer characteristics data collected through surveys. The proposed regulations for Section 1343 follow the guidelines issued in the Commission's *Data Report*.

Purpose and Rationale: The proposed amendments ensure that the Commission receives the customer characteristics data it needs without imposing undue requirements on utilities. The amendments require large utilities to complete residential, commercial, and industrial surveys every four years. Alternatively, utilities may cooperate, and contribute resources if necessary, to a Commission-managed survey of the same type. Commission-managed surveys have many advantages, including economies of scale and ensuring that needed data is collected. This approach ensures that the Commission will have the data it needs, but relieves the burden on utilities for preparing annual data plans and managing surveys that the Commission prefers to implement on a statewide basis. Utilities will still have to provide project plans for those surveys they choose to manage themselves.

Section 1343(a) requires each affected utility to provide the Commission with a survey plan, for only those surveys that the utility plans to implement themselves (rather than choosing the option in Section 1342(e)). In the past, all utilities had to submit data plans that described all proposed studies. The proposed plan must meet the specified survey design requirements. These are necessary to ensure that data received from utilities will be collected based on appropriate, valid, statistical methods that will be representative of the population. These requirements will ensure that the Commission is basing its forecasting and demand analyses on valid data.

Section 1343(b) identifies the specific data to be collected. This section is necessary to ensure that the utility-provided data sets include 1) specific energy-related characteristics that the Commission needs to develop estimates of end-use energy intensities, saturation of equipment, and their effect on energy demand, 2) supporting population data from which the sample can be selected, and 3) supporting energy consumption data to help weight the sample.

Section 1343(c) specifies the schedule for which the data in Section 1343(b) must be provided, along with a report on methodology. This report documents the methods used to collect and process data to assure that the Commission can effectively use the survey data.

Section 1343(d) is necessary to ensure the Commission receives the analytical products essential to energy demand forecasting and analysis. When a utility conducts its own survey, it will be in the best position to develop the end use intensities, appliance saturations, and floor space estimates that the Commission needs for forecasting.

Section 1343(e) provides an alternative to sections (a) through (d). If the Commission proposes to conduct a statewide survey for a given

sector, all utilities will be given the opportunity to participate. Utilities who agree to meet participation requirements will be relieved of the corresponding sector survey requirement of (a) through (d). Participation requirements will include provision of accounting data and billing histories, and may include contribution of financial resources necessary to conduct the study.

Section 1344. Load Metering Reports

Circumstances Addressed: The Commission proposes to collect system load shape and customer load shape information from large and medium utilities. The Commission proposes to eliminate the existing requirement for end-use load shape data. The proposed regulations for Section 1343 follow the guidelines issued in the Commission's *Data Report*.

Purposes and Rationale: Load research data is essential to carry out the Commission's mandated functions. Understanding system load helps explain how various customer sectors contribute to system reliability at various times. To reduce the burden to utilities, the Commission is eliminating the requirement for end-use load shape data.

Section 1344(a) specifies that both medium- and large-size utilities will provide load metering information and describes the method and format for providing data. This means an expansion of current requirements to include medium-size utilities. Medium-size utilities already report load research information to FERC. For the small incremental cost to the utility providing copies of data sent to FERC, the Commission gains a substantial amount of load information about customer electric use.

Section 1344(b) specifies peak load estimate data by customer sector. To better distinguish different loads, the agriculture and water pumping sector has been disaggregated into two distinct sectors. Utilities are no longer required to provide resale information.

Section 1344(c) specifies hourly load estimates by customer sector. The Commission is proposing to move from a typical-day basis to a full annual hourly basis. Most utilities already collect and post hour data. As a result, this requirement is consistent with industry practices. The move to a full annual basis is more consistent with current market structure, which is based on hourly markets. This approach reduces the work necessary to come up with the typical day required under the current regulations.

Section 1345. Power Plant Identifying and Operating Characteristics

Circumstances Addressed: The Commission proposes new reporting requirements for power plant owners due to restructuring of the electric industry. Most of the proposed regulations for Section 1345 follow the guidelines issued in the Commission's *Data Report*. The exceptions are 1) requirements for electric power plants with nameplate capacity of ten megawatts or less than fifty megawatts and 2) fixed operation and maintenance cost reporting for electric power plants with nameplate capacity of 50 or more megawatts.

Purposes and Rationale: Restructuring of the electricity market has resulted in major changes in the ownership of electric power plants in California. In the past, power plant characteristics were supplied by utilities in filings required under Commission regulations. The restructuring of the industry resulted in the utilities selling many of their power plants. Utilities are no longer able to provide complete power plant information. Therefore the Commission's *Data Report* recommends shifting the responsibility for reporting power plant characteristics to power plant owners. This recommendation is reflected in the draft language in Section 1345.

In Section 1345, reporting responsibilities differ depending on size of plant. Power plants with a nameplate capacity of one megawatt or more and less than ten megawatts report basic power plant information Section 1345(b)(1)(A) through (H)).

Power plants with a nameplate capacity of ten megawatts or more and less than fifty megawatts report more information than smaller plants. The additional information allows the Commission to better model the interconnected system of power plants serving California. Additional information includes forced outage rates, expected start-up times, etc. (Section 1345(b)(2)(I) through (T)).

Recent events in the electric industry warrant collection of power plant information that is beyond the recommendations of the *Data Report*. At the time the *Data Report* was issued, staff could rely on industry information provided by EIA and other sources to form its own estimates of operating characteristics of 1 to 50 MW power plants. However, current power shortages make accurate characterization of these smaller resources very important. In the aggregate, these smaller resources provide a significant amount of energy. Moreover, the EIA has proposed changes to its data collection forms and to its public release of data, which could jeopardize a key source of information to the Commission about the California power plants (Federal Register: March 13, 2001 (Vol. 66, No. 49, pages 14564-14566)).

Power plants with nameplate capacity of 50 megawatts or more report more information than smaller power plants. The additional information includes type of contract affecting dispatch, natural gas supply mix and capacity by black and average heat rates (Section 1345(b)(3)(U) through (W)). Most of the items in the proposed regulations match the recommendations in the *Data Report*. Two critical items asked for in the proposed regulations that are beyond the *Data Report* are variable and fixed operation and maintenance (O&M) costs. At the time the *Data Report* was issued, Commission staff planned to estimate these costs for each plant. Due to the recent electric shortfalls in California, the Commission found it needed more information for their models than allowed by estimates. Therefore the draft regulations require power plant owners to report O&M costs.

Section 1347. Resource Plans

Circumstances Addressed: Repealed.

Purposes and Rationale: Under current structure of electric market, the largest utilities have been required to sell off many of their electric power plants. Therefore resource planning is not a necessary function for these utilities.

Section 1347. Pricing and Financial Information

Circumstances Addressed: Repealed.

Purposes and Rationale: Pricing and financial information was used to support demand forecasts and resource plans which are no longer required do to changes in the electric market.

Section 1349. Reprting Deadlines and Extensions

Circumstances Addressed: Repealed.

Purposes and Rationale: Reporting deadlines and extensions are now included in Section 1342.

Section 1350. Exemptions

Circumstances Addressed: Repealed.

Purposes and Rationale: Exemptions related to utilities that may have to report under Section 1347, which is repealed.

Section 1351. Requests for Information

Circumstances Addressed: Critical needs for information that are beyond those asked in the proposed regulations.

Purposes and Rationale: The Commission finds that due to the uncertain circumstances in the energy industry it may be necessary to ask for additional data. Section 1351 specifies that the Commission's Executive Director may request disaggregations of any of the data required by the provisions of the proposed regulations.

Amendments to the Confidentiality Regulations Chapter 7, Article 2 (Sections 2501-2510)

Section 2503. Construction and Definitions

Circumstances Addressed: Clarification of specific terms in Section 2503(b). These terms are "application", "masked", and "aggregated."

Purposes and Rationale: In order to make regulations clear, the Commission is required to define terms that are susceptible to different interpretations by those who may be unfamiliar or have to comply with the regulations. The proposed revisions address the use of the term "application" and conditions under which data that is masked or aggregated may be released. The proposed amendments to definitions in Section 2503 clarify the meaning and the Commission's intent in applying those definitions.

In Section 2503(b)(4) the definition of "application" is deleted to avoid confusion with the intent of the word "application" in other sections in Division 2. Throughout this Article, applications are clarified as "applications for confidentiality."

In Section 2503(b)(8) the definition of masking is overly narrow. This term is intended to apply to situations where unaggregated data may be released, but only after steps are taken to ensure that individuals, or information about them cannot be identified. Omitting data is one approach. However, confidentiality can be protected using other data modification techniques. Because the purpose of collecting data is to support energy policy, the Commission wishes to maximize the value of the data released without compromising confidentiality. This can best be achieved through a variety of statistical methods such as rounding, grouping, replacing responses with group averages, or otherwise disguising

the data. The *Data Report* evaluated the options for protecting end user survey data and concluded that the approach followed by EIA was appropriate for the residential and commercial sectors. The EIA uses multiple techniques to avoid disclosure, and the Commission intends to follow a similar model. The proposed definition more accurately conveys the approach intended.

In Section 2503(b)(14) the proposed definition of aggregation provides a more common-sense interpretation consistent with the Commission's intent, which is to prevent certain types of data from being released unless they are aggregated, not just masked. The existing definition does not make any reference to summing up or grouping of data that a common sense reading of the word suggests. It is so broad as to allow unaggregated data that is masked in other ways to be released. This would be contrary to the intent of the Commission.

Section 2505. Designation of Confidential Records

Circumstances Addressed: Clarification for Section 2505(a). These clarifications result in no substantial changes.

Purposes and Rationale: The proposed amendment clarifies language to make use of the regulation more practical for persons wishing to use this section by specifying that the data listed as qualifying for the automatic confidentiality designation are associated with the proposed revised Article 2 and eliminating duplication.

In Section 2505(a)(1) language is eliminated that says failure to indicate confidentiality at the time a record is submitted is not a waiver of the right to request confidentiality. For clarity, this language is placed in a separate subsector (Section 2505(a)(6)).

In Section 2505(a)(3)(A) language is eliminated in the second paragraph that says the Executive Director shall issue a determination no later than thirty days after receipt of a complete application. This sentence is a duplicate of a sentence in the first paragraph of this subsection.

In Section 2505(a)(3)(C) language is eliminated about applicants filing appeals and if there is a request to inspect or copy a document under appeal. This language is duplicated in other subsections (Section 2505(a)(3)(b) and Section 2507(b)).

Language in Section 2505(a)(4) is eliminated and then rewritten for clarity. There is no substantial change in this subsection.

Parts of Section 2505(a)(5) are rewritten for clarity. Section 2505(a)(5)(B)5 is eliminated because it duplicates information in Section 2505(a)(5)(B)4. Section 2505(a)(5)(B)6 is rewritten to specify the exact type of data that is held confidential. Section 2505(a)(6) is an additional section that takes eliminated language from Section 2505(a)(1) and places it in its own section for clarity.

Section 2507. Disclosure of Confidential Records

Circumstances Addressed: Clarification of the applicability of Section 2507 to proposed revision of Article 2.

Purposes and Rationale: This section defines under what conditions and to whom confidential data may be disclosed. The proposed amendments clarify the applicability of this section to data in the proposed revision of Article 2.

The proposed amendment of Section 2507(c)(4) clarifies the specific type of survey data to which the section applies.

The proposed subsection (f) of Section 1343 of Article 2 includes a compliance option under which would authorize utilities to collaborate with the Commission in the design and implementation of an end-user survey in lieu of providing the data to the Commission. The proposed modification of Section 2507(c)(4)B clarifies that utilities are entitled receive the survey results in return.

Section 2507(d)(4) authorizes disclosure of data collected from customer surveys. The proposed modification clarifies the type of customer surveys.